IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.14476 of 2004

Between:

1 Maru Dasaratharami Reddy, s/o Rami Reddy,
r/o Pantapalem, Muthukuru Mandal, Nellore District.
2 Gummadi Pitchaiah, s/o Gunnaswamy,
r/o Epuru Balajipalem, Muthukuru Mandal, Nellore District.
3 Maru Venkata Rami Reddy, s/o Dasaratharami Reddy,
r/o Pantapalem, Muthukuru Mandal, Nellore District.
4 Sk.Khalisha Saheb, s/o Madar Saheb,
r/o Epuru Village, Muthukuru Mandal, Nellore District.
5 D.Venkata Subba Reddy, s/o Papi Reddy,
r/o Mittapalem, Muthukuru Mandal, Nellore District.
6 D.Ranga Reddy, s/o Papi Reddy,
r/o Mittapalem (V), Muthukuru Mandal, Nellore District.

...PETITIONERS

AND

1. Sri Virupaksheswara Swami Vari Devasthanam, Epuru, Muthukuru Mandal, Nellore District, rep.by its Manager (An Endowments Institution).

2. The Assistant Commissioner of Endowments, Nellore, Nellore District.

3. The Deputy Commissioner of Endowments, Guntur, Guntur District.

4. The Commissioner of Endowments, Boggulakunta, Tilak Road, Hyderabad.

5. The Government of Andhra Pradesh, rep.by its Principal Secretary, Endowments Department, Secretariat, Hyderabad.

6. Epuru Ramesh Reddy, S/o.Chandra Reddy, 35 years, R/o.Venkannapalem Village, Doruvulapalem Gram Panchayat, Muthukur Mandal, Nellore District.

7. Rowthy Venkaiah, S/o.Muthaiah, 55 years, R/o.Royyalapalem Village, Doruvulapalem Gram Panchayat, Muthukur Mandal, Nellore District.

8. Pamula Veeraiah, S/o.Ragaiah, 35 years, R/o.Royyalapalem Village, Doruvulapalem Gram Panchayat, Muthukur Mandal, Nellore District.

9. Dara Venkateswarlu, S/o.Subbaramaiah, 30 years, R/o.Royyalapalem Village, Doruvulapalem Gram Panchayat, Muthukur Mandal, Nellore District.

(RR 6 to 9 impleaded as per Court order dated 13.10.2004 in W.P.M.P.No.22802 of 2004).

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ, declaring the action of the Manager the 1st respondent herein in putting to public auction the leasehold rights of the lands of the petitioner Nos:1 to 4 in an extent of Ac.24.00 of land in S.Nos.476, 466, 468 and 470 at Epuru Village, Muthukuru Mandal, Nellore District, shown in schedule to the auction notice dated 05.08.2004 of the Ist respondent affixed on 13.08.2004 to the wall of the temple as illegal and declaring the action of the Ist respondent in putting to public auction the lands of the petitioner Nos.5 to 6 in an extent of Ac.68.95 cents in S.Nos.597, 840, 459, 460, 462, 464 and 475 at Epuru Village as shown in the schedule to the same public auction notice dated 05.08.2004 affixed on 13.08.2004 to the wall of the temple, though they are specific endowments lands as illegal, arbitrary to the of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 and it is further consequentially prayed that this Hon'ble Court may be pleased to set aside the public auction notice dated 05.08.2004 issued by the Ist respondent holding that the petitioners are entitled to have the possession of the lands with cultivating rights.

Counsel for the Petitioners: MR.S.R.SANKU

Counsel for the Respondent No.1: Smt.N.Indrani, SC for the 1st respondent, temple.

Counsel for the Respondent Nos.2 to 5: GP FOR ENDOWMENTS

Counsel for the Respondent Nos.6 to 9: MR.P.SRIDHAR REDDY

The Court made the following:

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.14476 of 2004

ORDER:

This Writ Petition is filed seeking a declaration that the action of the first respondent in putting the lease hold rights to public auction in respect of the land situated in Survey Nos.476, 466, 468 and 470 at Epuru village, to an extent of Acs.24.00 and also another extent of Acs.68.95 cents situated in Survey Nos.597, 840, 459, 460, 462, 464 and 475 at Epuru village belonging to petitioner Nos.5 and 6 as arbitrary and illegal.

This Court while directing notice to the respondents, by order dated 16.08.2004 ordered that the auction proposed under the impugned notice may go on but the same shall not be confirmed. It appears that in the auction held on 16.08.2004, the respondent Nos.6 to 9, who got themselves impleaded to the Writ Petition, were declared as highest bidders.

I have heard learned counsel for the petitioners, learned standing counsel appearing for the first respondent-Temple as well as learned counsel for the impleaded respondent Nos.6 to 9. Though the learned counsel appearing for both the parties raised various contentions, it is not necessary to go into the said issues, since it has been represented by the learned counsel for the petitioners that so far as the extent

of Acs.24.00 situated in Survey Nos.476, 466, 468 and 470 at Epuru village is concerned, the petitioners are not pressing their claim. Accordingly, the writ petition so far as the said Ac.24.00 is dismissed and the interim stay granted on 16.08.2004 shall stand vacated making it clear that it is open to the first respondent to confirm the auction and to take the necessary further steps in accordance with law.

However, so far as the remaining extent of Acs.68.95 cents situated in Survey Nos.597, 840, 459, 460, 462, 464 and 475 at Epuru village is concerned, the petitioner Nos.5 and 6 claim that it is a specific endowment and therefore the tenancy in their favour is not liable to be terminated by virtue of Section 82 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). Learned standing counsel appearing for the first respondent submits that under Section 87 of the Act, the Deputy Commissioner is competent to make an enquiry with regard to any claim of specific endowment.

In the circumstances and particularly keeping in view that the matter involves several disputed questions of fact which cannot be investigated into by this Court in exercise of writ jurisdiction, without expressing any opinion on merits, I deem it appropriate to dispose of the Writ Petition granting leave and liberty to petitioner Nos.5 and 6 to make an appropriate representation before the Deputy Commissioner of Endowments, Guntur with regard to their claim that Ac.68.95 cents is a specific endowment within a period of four weeks from today, in which event, the Deputy Commissioner of Endowments, Guntur, shall consider the same and pass appropriate orders in accordance with law, after hearing all the parties concerned, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of such representation from petitioner Nos.5 and 6. Till such time, the auction conducted in pursuance of the impugned notice with regard to the abovesaid Ac.68.95 cents shall not be confirmed.

Accordingly, the Writ Petition is disposed of. No costs.

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(G.ROHINI, J)

13th October 2004

Note: CC by one week

B/O

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Manager, Sri Virupaksheswara Swami Vari Devasthanam, Epuru, Muthukuru Mandal, Nellore District (An Endowments Institution).
2. The Assistant Commissioner of Endowments, Nellore, Nellore District.
3. The Deputy Commissioner of Endowments, Guntur, Guntur District.
4. The Commissioner of Endowments, Boggulakunta, Tilak Road, Hyderabad.
5. The Principal Secretary, Government of Andhra Pradesh, Endowments Department, Secretariat, Hyderabad.
6. Two CCs to G.P. for Endowments, High Court Buildings, Hyderabad (OUT).
7. Two CD copies.